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Applicant: Koszinowski et al.

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DECLARATION UNDER 37 C.F.R. § 1.132 OF
MARTIN MESSERLE

I, Martin Messerle, do hereby declare:

1. I am a co-inventor of the above-referenced patent application. I am Associate Professor for Molecular Virology at the Hannover Medical School. A copy of my *curriculum vitae* is enclosed herewith.

2. I have read Chartier et al., *J. Virol.*, 70: 4805-4810 (1996), which is cited in the Office Action dated December 30, 2008.

3. The method disclosed in the Chartier reference is not suitable for generating virus genomes that are larger than an adenovirus genome (i.e., 36 kilobases) for the reasons described below.

4. The plasmid vector used in the Chartier reference would not support the stable replication of DNA fragments that are larger than 100 kb. Indeed, vectors comparable to those disclosed in the Chartier reference (e.g., pBR322, pACYC177, and pACYC184 [Chang and Cohen, *J. Bact.*, 134: 1141-1156 (1978)]) have an upper limit cloning capacity of around